

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 8th day of September 2005, at 8:00 P.M., and there were

PRESENT: JOHN ABRAHAM, JR. MEMBER

 *ANTHONY ESPOSITO, MEMBER

 WILLIAM MARYNIEWSKI, MEMBER

 RICHARD QUINN, MEMBER

 ARLIE SCHWAN, MEMBER

 ROBERT THILL, MEMBER

 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK

 LEONARD CAMPISANO, ASST. BUILDING INSPECTOR

 RICHARD SHERWOOD, TOWN ATTORNEY

* At 10:09 P.M. Mr. Esposito exited the meeting

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF DANIEL & JULIE CURTIS

THE 1st CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of Daniel & Julie Curtis, 732 Aurora Street, Lancaster, New York for a two [2] year Temporary and Revocable Permit for the purpose of allowing the petitioners to conduct sales of wood crafts and gifts from the attached garage on premises owned by the petitioners at 732 Aurora Street, Lancaster, New York, to wit:

Whereas, Chapter 50, Zoning, Section 45D.(1)(a) of the Code of the Town of Lancaster authorizes the Zoning Board of Appeals to issue a temporary and revocable permit for not more than two [2] years for uses and structures that do not conform with the regulations of this ordinance for the district in which it is located, provided that the use is of a temporary nature and does not involve the erection or enlargement of any permanent structure,

Whereas, the petitioners intend to engage in retail sales of wood crafts and gifts out of their home which is located in a Residential District One (R-1),

Whereas, such retail sales are not a permitted use in a Residential District.

Now therefore, the petitioners, request a two [2] year Temporary and Revocable Permit be granted by the Zoning Board of Appeals of the Town of Lancaster to permit the conduct of the sales of wood crafts and gifts from their private residence.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested permit of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Julie Curtis, petitioner 732 Aurora Street Lancaster, New York 14086	Proponent
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James Hill 736 Aurora Street Lancaster, New York 14086	Proponent
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Todd Adamec 728 Aurora Street Lancaster, New York 14086	Proponent
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Jorge Koury 735 Aurora Street Lancaster, New York 14086	Proponent
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The petitioners presented the following to be entered into evidence:

Photos of some of the items they produce for sale.
Petition signed by various residents indicating no objection to the establishment of retail sales at this location.

IN THE MATTER OF THE PETITION OF JULIE & DANIEL CURTIS

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Julie and Daniel Curtis and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of September 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is not a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been received and determined to be of local concern". However they did note that parking is not permitted in a County Highway Right of Way.

That no undesirable change will be produced in the character of the neighborhood by the granting of the permit.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the permit.

That this board has taken into consideration the benefit to the applicants if the permit is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the Special Temporary Revocable Permit is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

1. An unlit sign is permitted; the sign must conform to the Code of the Town of Lancaster in its placement and can not exceed two [2] square feet in area per side and can have no more than two [2] sides.
2. Only merchandise crafted on the premises may be sold on the premises.
3. Only persons residing on the premises may craft the merchandise to be sold.
4. This Special Temporary Revocable Permit is valid for one [1] year from this date, however, it may be automatically renewed by the Building Inspector of the Town of Lancaster for a period of one [1] additional year at the discretion of the Building Inspector.
5. The retail space is to be limited to the garage area as it currently exists.
6. The retail space shall be clearly incidental and subordinate to the use of the premises for residential purposes.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the permit was thereupon **ADOPTED**.

September 8, 2005

PETITION OF 81 & 3 OF FLORIDA, INC.:

THE 2nd CASE TO BE HEARD BY THE ZONING Board of Appeals was that of the petition of 81 & 3 of Florida, Inc., 6495 Transit Road, Bowmansville (Town of Lancaster), New York for one variance from the requirements of Chapter 50, Zoning, Section 19B.(2)(e) of the Code of the Town of Lancaster on property owned by the petitioner at the northeast corner of Transit Road and the RJ Corman Railroad Line. This property is identified on the tax map of the Town of Lancaster as Section Block Lot Nos. 82.03-3-25 and 82.03-3-27.

The petitioner proposes the development of a 10,000 square foot multi-use travel center/convenience center comprised of 3,800 square feet of retail floor space, seventeen (17) fuel dispensing points, full service bathrooms and restaurants. The property for which the variance is requested is located within a General Business [GB] District as shown on the official Zoning Map of the Town of Lancaster.

Chapter 50, Zoning, Section 19B.(2)(e) of the Code of the Town of Lancaster limits the number of fuel dispensing points in a General Business [GB] District to one [1] per three hundred [300] square feet of retail floor area thereby limiting the petitioner to twelve [12] fuel dispensing points. The petitioner, therefore, requests a variance for five [5] additional fuel dispensing points.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Cheektowaga of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Joseph Cipolla, Principal 81 & 3 of Florida, Inc. 6495 Transit Road Bowmansville, New York 14026	Proponent
Cathleen Pijacki 112 Maple Drive Bowmansville, New York 14026	concerns about flooding
Asif Mohamed, Genesee Engineering 6495 Genesee Street Bowmansville, New York 14026	agent of Petitioner, Proponent
Tanner Leto, Genesee Engineering 6495 Genesee Street Bowmansville, New York 14026	agent of Petitioner, Proponent

IN THE MATTER OF THE PETITION OF 81 & 3 OF FLORIDA, INC.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of 81 & 3 of Florida, Inc. and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of September 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the General Business District, (GB) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action in its communications to the Town Clerk on September 6, 2005 and September 8, 2005. Copies of these communications have been provided to each Zoning Board of Appeals member, the Town Building Inspector and the Town Attorney. The original communications are on file with the Town Clerk.

IN THE MATTER OF THE PETITION OF 81 & 3 OF FLORIDA, INC.

THE FOLLOWING MOTION WAS MADE
BY MR. ESPOSITO, SECONDED BY
MR. LEHRBACH TO WIT:

To continue discussion regarding this matter.

The motion was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED NO
MR. ESPOSITO	VOTED YES
MR. MARYNIEWSKI	VOTED NO
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The motion was thereupon **DEFEATED**.

N.B. Mr. Esposito exited the meeting prior to the next motion.

THE FOLLOWING MOTION WAS MADE
BY MR. THILL, SECONDED BY
MR. ABRAHAM TO WIT:

To close the hearing to further testimony and evidence and to render a findings statement and determination within sixty days.

The motion was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The motion was thereupon **CARRIED**.

September 8, 2005

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 10:30 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: September 8, 2005

